

The Jury

(Instructions)

I. Importance of Instructions

- A. To have an instruction instead of just argument gives you great help on closing argument since you can say it isn't just your opinion, it is the law of the state of ---- .
- B. To have an instruction allows you to gain emphasis for a point such as credibility of witnesses by inviting the jury to put Instruction No.---- in the middle of the table in the jury room and measure the prosecution witnesses by its standards.
- C. The use of instructions allows you to take advantage of whatever law is on your side.
- D. Instructions can be used to advance and carry out the trial plan arrived at as set forth in other outlines.

II. How to get an Instruction

- A. Be able to support the wording of the instruction with law you can show the Court.
- B. Be familiar with the law of instructions in Montana and cite it to the Court to show that failure to give proper instructions is reversible error.
- C. Have the instructions typed out ahead of time.
- D. Show that the instruction you want is taken directly from a statute, from a case as an approved instruction or that the instruction's language comes from an opinion of the Appellate Court.
- E. Have two instructions on a point. Submit the one most slanted for the defense first and when and if refused, submit the more moderate one or submit both and compromise on the moderate one.
- F. Submit various instructions and be willing to compromise in order to get the one you really want by not pushing others too hard.